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EXAMINER	
ART UNIT	PAPER NUMBER
	05/1/28

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

The amendment filed on 4-17-97 canceling all claims drawn to "the constructively elected invention" and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on "the constructively elected invention" because they are directed to the product (identified as Group II below) instead of the method (identified as Group I below).

Applicant is given a ONE MONTH time limit or until the expiration of the response period set in the last Office action, whichever is longer, to complete the response. NO EXTENSION OF THIS TIME LIMIT WILL BE GRANTED UNDER EITHER 37 CFR 1.136(a) OR (b) but, the period for response set in the last office action may be extended up to a maximum of SIX MONTHS.

With respect to "the constructively elected invention", the following comments are made: Newly submitted claims 94-115 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The invention originally claimed is identified below as Group I and the invention claimed in the newly submitted claims is identified below as Group II:

- I. Claims 61-64, 74-76, 79, 80 and 83-93, drawn to an attaching method, classified in class 156, subclass 294.
- II. Claims 94-115, drawn to a product (a balloon), classified in class 604, subclass 96.

The inventions are distinct, each from the other because:

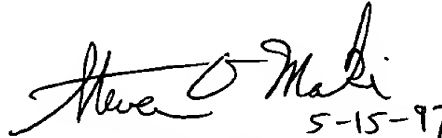
Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can

be made by another and materially different process. (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by a materially different process such as forming the layers by using injection molding instead of coextruding OR laminating preformed layers instead of coextruding the layers OR expanding a catheter body instead of a coextruded parison. It is also noted that, the process as claimed can be used to make other and materially different product such as one in which the expander member is not "sized and configured for intravascular use".

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 94-115 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (703) 308-2068. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball, can be reached on (703) 308-2058. The fax phone number for Art Unit 1301 is (703) 305-7115. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.

Steven D. Maki  
May 15, 1997

  
5-15-97  
STEVEN D. MAKI  
PRIMARY EXAMINER  
GROUP 1300